

## REMARKS

Applicant respectfully requests reconsideration of this application as amended.

### Office Action Rejections Summary

Claims 1, 2, 4, 5, 20, 21, 32, 33, 35, 46-51, 58-61, 68, 69 and 78 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,959,972 of Hamami ("Hamami") in view of U.S. Patent No. 5,608,733 of Vallee et al. ("Vallee").

Claims 6-10, 12-15, 22-26, 28-31, 36-43, 52-55, 57, 62-67, 71-77, 79, 80 and 81 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Hamami in view of Vallee and further in view of U.S. Patent No. 6,262,986 of Oba et al. ("Oba").

Claims 11, 27, 56 and 66 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Hamami, in view of Vallee, in view of Oba, and further in view of U.S. Patent No. 6,097,722 of Graham et al. ("Graham").

Claims 18 and 44 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Hamami, in view of Vallee, and further in view of Graham.

Claims 3, 34 and 70 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Hamami, in view of Vallee, and further in view of U.S. Patent No. 6,356,622 of Hassell et al. ("Hassell").

Claims 16 and 17 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Hamami, in view of Vallee, and further in view of the Admitted Prior Art.

### Status of Claims

Claims 1-81 are pending in the application. Claims 1, 19, 32, 45-48, 58, 68 and 78 have been amended to more properly define existing claim limitations. The amended

claims are supported by the specification. No claims have been added. No new matter has been added. No claims have been canceled.

Claims 19 and 45 have each been amended to include all the limitations of their respective base claim and any intervening claims. Therefore, it is submitted that claims 19 and 45 are in condition for allowance. The following comments are directed to the rejected claims.

#### Claim Rejections

Claims 1, 2, 4, 5, 20, 21, 32, 33, 35, 46-51, 58-61, 68, 69 and 78 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Hamami in view of Vallee. It is respectfully submitted that claim 1 is patentable over the cited reference.

Claim 1 recites:

A system for protecting a network comprising:  
a plurality of links located in said network;  
a transmitter switch, coupled to a first end of each link of said plurality of links, for transmitting distinct data along each link of said plurality of links **before a failure is detected on one of said plurality of links**; and  
a receiver switch, coupled to a second end of each link of said plurality of links, for receiving said distinct data from each link of said plurality of links;  
wherein said distinct data transmitted along said one link of said plurality of links is switched to another link of said plurality of links when the failure is detected on said one link.

(emphasis added)

To clarify applicant's previous comments, in Hamami all the data is transmitted over only one link: **either** the main link or the backup link during any given transmission, **but not both** at the same time before a failure is detected in one of the links. It is believed the Examiner to be in agreement on this point based on the Office Action statement that "Hamami does not disclose the transmitting switch transmitting distinct data along each link of plurality of links to the receiving switch."

The Office Action further states:

Vallee et al. discloses, in Fig. 8, transmitting node 20 transmitting different ATM cells (distinct data) over links 24 respectively (along each link) to a receiving node 26 (transmitting distinct data along each link of plurality of links to the receiving switch). See col. 5, line 60 to col. 6, line 5. Therefore, it would have been obvious to one ordinary skill in the art to modify the Hamami by transmitting distinct ATM cells along each of links 60, 62. The motivation is to transmit distinct data along each link and switch data on one failed link to another at the same time without using backup link.

(Office Action, 2/12/04, pp. 2-3)

It is respectfully submitted that Vallee cannot be combined with Hamami in the manner purported by the Office Action because such a combination would changed the principle of operation of the Hamami system being modified. In particular, Hamami explicitly teaches **the use of a backup link** to provide **redundancy** in the ATM layer itself **without the need for higher order layers**. (Hamami, Summary of the Invention; col. 4, lines 50-55. Vallee teaches the transmission of ATM cells sent to a destination node over more than one transmission link in a round robin fashion that *would require operations of higher order protocol layers*. For example, at connection start-up, the source node informs the destination node of the specific round robin fashion of the transmission links. (Vallee, Abstract). As such, one of skill in the art facing the problems confronting the inventors of Hamami would not look to the teaching of Vallee because to modify Hamami so as not to use a backup link would changed the principle of operation of the Hamami system. There can be no motivation to combine, where the suggested combination of references would require a substantial reconstruction and redesign of the elements shown in the primary reference as well as a change in the basic principle under which the primary reference construction was designed to operate. In re Rattie, 270 F.2d 810 (CCPA 1959); MPEP 2143.01.

Therefore, its is respectfully submitted that the cited references cannot be combined in the manner purported by the Office Action to render applicant's claim 1 obvious. For reasons similar to those given above with respect to claim 1, applicant submits that claims 2, 4, 5, 20, 21, 32, 33, 35, 46-51, 58-61, 68, 69 and 78 are also patentable over the cited references.

Claims 16 and 17 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Hamami, in view of Vallee and further in view of the Admitted Prior Art. For reasons similar to those given above with respect to claim 1, applicant submits that claims 16 and 17 and 78 are also patentable over the cited references.

Claims 6-10, 12-15, 22-26, 28-31, 36-43, 52-55, 57, 62-67, 71-77, 79, 80 and 81 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Hamami in view of Vallee and further in view of Oba. Applicant respectfully submits that Oba fails to cure the deficiency noted above with respect to claim 1 and, therefore, claims 6-10, 12-15, 22-26, 28-31, 36-43, 52-55, 57, 62-67, 71-77, 79, 80 and 81 are patentable over the cited references.

Claims 11, 27, 56 and 66 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Hamami, in view of Vallee, in view of Oba, and further in view of Graham. Applicant respectfully submits that Graham fails to cure the deficiency noted above with respect to claim 1 and, therefore, claims 11, 27, 56 and 66 are patentable over the cited references.

Claims 18 and 44 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Hamami, in view of Vallee, and further in view of Graham. Applicant respectfully submits that Graham fails to cure the deficiency noted above with respect to claim 1 and, therefore, claims 18 and 44 are patentable over the cited references.

Claims 3, 34 and 70 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Hamami, in view of Vallee, and further in view of Hassell. Applicant respectfully submits that Hassell fails to cure the deficiency noted above with respect to claim 1 and, therefore, claims 3, 34 and 70 are patentable over the cited references.

In conclusion, applicant respectfully submits that in view of the arguments set forth herein, the applicable objections and rejections have been overcome.

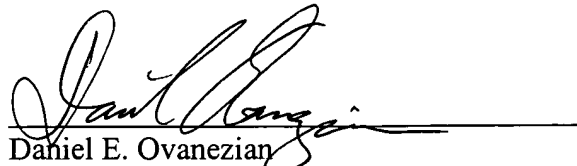
If the Examiner believes a telephone interview would expedite the prosecution of this application, the Examiner is invited to contact Daniel Ovanezian at (408) 720-8300.

If there are any additional charges, please charge our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: 4/21, 2004

  
Daniel E. Ovanezian  
Registration No. 41,236

12400 Wilshire Boulevard  
Seventh Floor  
Los Angeles, CA 90025-1026  
(408) 720-8300

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